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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/778,543	02/07/2001	Glenn R. Godley	6253-28	5035

7590

07/31/2002

LAW OFFICES OF JOHN D. GUGLIOTTA, PE, ESQ.
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EXAMINER

SOTOMAYOR, JOHN

ART UNIT

PAPER NUMBER

3714

DATE MAILED: 07/31/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/778,543

Applicant(s)

GODLEY, GLENN R.

Examiner

John L. Sotomayor

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 February 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 17 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim states that a trough is inserted into an apparatus “within the space created by the bird perch”. The manner in which this is accomplished is not clear, rendering confusion about the claim and causing the claim to be indefinite.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3,5 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Jost et al (US 5,061,186).
5. Regarding claims 1 and 18, Jost et al discloses a system for vocal training that includes sensors that detect the presence and motions of the student through pressure sensors, records the subject or instructor’s audio and plays back the prerecorded sound to allow the student to vocally emulate the desired sound (Col 2, lines 1-68).

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6. Regarding claim 2, Jost et al discloses a system that is capable of selecting the prerecorded sounds to be played for the student (Fig. 1).

7. Regarding claim 3, Jost et al discloses a system that is capable of recording sounds that are audible to human beings (Fig. 1).

8. Regarding claim 5, Jost et al discloses a system that contains sensors capable of detecting movement of the student (Col 2, lines 1-29).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 4, and 6-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jost et al in view of Easterbrook (US 5,823,786) in further view of Jacobson et al (US 5,903,869) in further view of Spector (US 5,774,861).

11. Regarding claim 4, Jost et al does not specifically disclose that sounds recorded by the system are audible to animals. However, it is common and well-known that most animals associated with humans have audible ranges that are larger in terms of frequency spectrum than the spectrum that is detected by human hearing. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention that a system that is capable of recording sounds that are audible to human beings is also capable of recording sounds that are audible to animals.

12. Regarding claims 6-8, Jost et al discloses a pressure sensor, but does not specifically disclose other types of sensors to detect presence and motion. However, Easterbrook teaches a training device that includes audio playback of instructions that can use “pressure sensors, position sensors, velocity sensors, and the like” to detect presence and motion of a student (Col 3, lines 35-38). In each case, the sensors are used to determine location of a student to enhance audio playback of the instructional information. Therefore, it would have been obvious to one of ordinary skill in the art to use various sensors, including light, laser and heat sensing devices, to detect the presence and motion of the student using the system.

13. Regarding claims 9-14, Jost et al discloses a housing for system sensors that could be used as a perch for a bird, but does not specifically disclose a mirror within the housing or a bracket for attaching the apparatus. However, Spector teaches that an educational assembly for playback of audio/visual material to a child may have a detachable perch, include a mirror within the housing, and have a bracket for attachment of the assembly (Abstract, Fig. 1). In each case, making the sensor and educational assembly attachable to other structures makes the assembly more flexibly usable for those intended to receive the audio and/or visual broadcast. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to provide the ability for the assembly housing to have a detachable perch, include a mirror within the housing, and have a bracket for attachment to other structures in order to provide greater flexibility of use to those intended to receive the audio and/or visual broadcast.

14. Regarding claim 15, Jost et al does not specifically disclose that the broadcast assembly may be freestanding. However, Spector teaches that the unit may be installed within an enclosure occupied by an infant (Abstract). Not all infant enclosures have readily available

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attachment points and we can see in Fig. 1 that the housing taught by Spector is readily adaptable to stand freely. Therefore, it would have been obvious to one of ordinary skill in the art to provide a free-standing type housing for greater flexibility in the location of the broadcast assembly.

15. Regarding claims 16-17, Jost et al does not specifically disclose that the broadcast assembly has a trough or that a recording device may be placed within such a trough (as best understood from claim 17). However, Jacobson et al teaches that an audio recording device may have a housing with a built in trough into which the audio device may be inserted and removed with ease (Abstract, Fig. 15). In each case, the ease of use of the audio record and playback assembly is enhanced if it can be relocated to locations more favorable to the student. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to provide an assembly housing with a trough into which the broadcast assembly could be removably located.

Conclusion

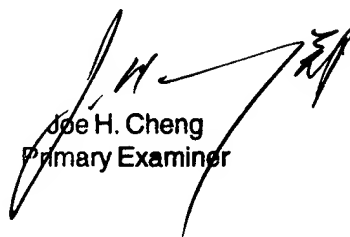
Any inquiry concerning this communication or earlier communications from the examiner should be directed to John L Sotomayor whose telephone number is 703-305-4558. The examiner can normally be reached on 7:30-4:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jessica Harrison can be reached on 703-308-2217. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7768 for regular communications and 703-308-7768 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4558.

jls
July 25, 2002


Joe H. Cheng
Primary Examiner